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To: LABTestimony
Subject: Testimony in SUPPORT of HB 858

March 5, 2015

To the Co-Chairs and members of the Labor and Public Employees Committee:

Testimony in SUPPORT of HB 858 An Act Concerning Employees Who Customarily And Regularly Receive Gratuities And The Minimum Fair Wage

Submitted by Dania Rajendra – National Highroad Director, Restaurant Opportunities Centers United

Read by Michael Araujo- Policy Organizer, Restaurant Opportunities Center

Thank-you to Senator Gomes, Representative Tercyak, and the members of the Committee for the opportunity to speak to you today about raising wages for tipped works. We are very supportive of the concept HB 858, but believe it needs to go further.

Many people that work in restaurants, employees and employers alike, will tell you that it's not just a job; it's a passion. But passion or no passion, far too many are living a very different reality. They are struggling to get by in an industry with the dubious distinction of providing some of the absolute lowest paying jobs. Quite literally the very people that serve in food in our restaurants often cannot afford to put food on their own tables.

There is a pervasive myth that all tipped workers are all making a living wage because of the generous tips they receive. Although about 10% of restaurant workers, mostly in fine dining, do make a living wage, most servers are not well-tipped fine dining servers. And, excluding a few exemplary operations, the industry as a whole has not made an effort to create career paths that would allow workers to move into livable wage jobs. The vast majority of tipped workers are employed in casual full service restaurants: diners, and places like IHOPS, Olive Garden, Red Robin, Applebee's. As a result of earning a subminimum wage, tipped workers live in poverty at nearly three times of that of the workforce as a whole in Connecticut. Because 66% of tipped

workers in Connecticut are female, this burden disproportionately falls women, particularly women of color who are more frequently employed in casual dining restaurants as opposed to fine dining restaurants.

A \$5.78 tipped minimum wage means that tipped workers must depend on their tips to survive- an inherently instable way to earn an income that puts workers in economic limbo. Tips can fluctuate significantly based on the time of day, weather, or how many other servers are working. If they have a slow week or the weather is bad, as it has been recently, tipped workers find themselves in serious trouble.

Equally disturbing, the lower wage for tipped workers exacerbates already high levels of sexual harassment in the restaurant industry. While 7% of American women work in the restaurant industry, it is **responsible for 37% of all sexual harassment claims** to the Equal Employment Opportunity Commission. This is largely the result of the fact that tipped workers earning a sub-minimum wage are dependent on the generosity of customers for the bulk of their income, rather than their employers. As a result, they must often tolerate inappropriate behavior from customers, and are vulnerable to sexual harassment from coworkers and managers. Sexual harassment of tipped workers is twice as high in states that allow employers to pay tipped workers a lower minimum wage as compared to states that do not have a lower wage for tipped workers.

The problem is that poverty wage jobs are the norm in the restaurant industry. The base line is so low that well-intentioned employers have to buck standard industry practice in order to get close to paying a living wage. The laws and regulations that govern the restaurant industry encourage employers to pay poverty level jobs. The so-called tip credit system is a perfect example of this.

Employers are allowed to pay tipped employees a lower minimum wage of just \$5.78 per hour, expecting that the customers- who have no legal obligation to the employees- will make up the difference. Tipped workers are supposed to have their pay "topped off" by their employers if their base wage and tips don't add up to the regular minimum wage. This creates a complicated and time intensive process for employers, and – unfortunately – far too many decide it is just not worth the hassle. Even for those who are committed to following the law, the complexity of the system makes it difficult to follow and opens up employers to unnecessary liability.

The U.S. Department of Labor has seen many cases arise out of this flawed policy. From 2010-2012, the Wage and Hour Division of the Department of Labor conducted nearly 9,000 investigations in the full service sector of the restaurant industry, and found an 84% non-compliance rate. The Wage and Hour Division recovered \$56.8 million in back wages for nearly 82,000 workers and assessed \$2.5 million in civil money penalties.

Some restaurants, right here in Connecticut, like Umi Sushi & Tapas, right have already opted to pay their tipped workers the full minimum wage. **However, without change at the policy level, this puts employers who are trying to do the right thing in a difficult position by forcing them to compete on an uneven playing field.**

We don't have to look far to find examples of a better system. There are seven states in the U.S. that have already abolished the tipped credit system. **Over one million tipped workers in California, Oregon, Washington, Nevada, Minnesota, and Alaska earn the same minimum wage as everyone else- *plus tips* and these states having thriving restaurant industries.** According to the National Restaurant Association's own growth projections, restaurant employment in those seven states is projected to grow over 11% in the next decade, compared to 6% in Connecticut. If we look at real world examples to guide us, we should eliminate the tipped minimum wage entirely. States that have one wage for tipped and non-tipped works have higher employment growth in the restaurant industry and higher per capita sales than states with a lower minimum wage for tipped workers.

There is another myth that the restaurant industry has extremely low-profit margins and would be in jeopardy if faced with an expansion of paid sick days or wages. Low-profit margin businesses are high volume operations that make a smaller amount of profit per unit sold than high-margin companies, but sell much higher volumes. Restaurants tend to have profit margins twice as high as successful businesses such as Wal-Mart and Whole Foods. The fact is that restaurants are thriving in states and cities that have enacted these proposed regulations, in part buoyed by the increased purchasing power of low-wage workers.

Defenders of the lower, tipped minimum wage also like to say tipping is "deeply ingrained in U.S. culture," but that's just not true. Today, there's more evidence than ever that the public wants to change how tipped workers are paid. A recent poll shows that 71% of Americans support eliminating the lower, tipped minimum wage.

Connecticut has a strong history of leading on smart, progressive policies – it's time we add One Fair Wage- the same minimum wage for tipped and non tipped workers- to the list. It will be to the benefit of all those- employers, employees, and consumers- who love and work in our restaurant industry.